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FILED
BOARD OF PHYSICAL THERAPY

JAN 02 2013

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
EXAMINERS

IN THE MATTER OF	:	Administrative Action
	:	
JON PALLOURAS, P.T.A. A/K/A	:	MODIFIED CONSENT ORDER
JONATHAN PALLOURAS, P.T.A.	:	
License No. 40QB00206600	:	
	:	
LICENSED TO PRACTICE PHYSICAL	:	
THERAPY IN THE STATE OF	:	
NEW JERSEY	:	

THIS MATTER was opened to the New Jersey State Board of Physical Therapy Examiners (hereafter "Board") upon the request of Jon Pallourus, P.T.A. (hereafter "Respondent") to have his license as a physical therapist assistant reinstated upon the adjudication of not guilty on two charges of sexual assault and two charges of criminal sexual contact after a bench trial ending in April 2012.

Respondent voluntarily agreed to cease and desist from practice as a physical therapist assistant until the criminal matter was

resolved and a further order of the Board was issued. He surrendered his license to the Board on February 4, 2011. All criminal charges pending against respondent were dismissed in April 2012 after a bench trial before the Honorable Donald R. Venezia, J.S.C.

The Board held an investigative inquiry on July 24, 2012 attended by the Respondent with his attorney, Robert Galantucci, Esquire, regarding a complaint by C.S. that during the course of physical therapy treatment the Respondent conducted a manual kegel without informing her that he was doing such a procedure. The last time that respondent performed the procedure was after C.S. told him not to conduct the procedure again.

Respondent represented that he is a co-owner of Progressive Sports Rehabilitation, a physical therapy practice located in Rochelle Park, New Jersey. Respondent works under the direct supervision of Charles Swinkin, PT who co-owns the practice. Mr. Swinkin and the respondent are the sole physical therapist and physical therapist assistant working in this practice on a full-time basis. The practice hires per diem physical therapists to cover for vacations or when the schedule demands additional employees to carry the work load.

Respondent testified that he prepares to treat patients by reviewing the patient record, the initial evaluation and the plan of care prepared by the physical therapist and has a verbal

communication with the physical therapist about the treatment plan for the particular patient. He also testified that he does not document that verbal conversation in the patient record.

Respondent further testified that he took over the physical therapy treatment of C.S. after Mr. Swinkin, P.T. initiated physical therapy services and had seen the patient for 10 or 11 visits. Respondent confirmed that C.S. had a total of 91 visits for physical therapy services. Respondent first treated C.S. on September 28, 2010 for core strengthening and to reduce her radicular pain. The patient note for September 28, 2010 while co-signed by Charles Swinkin does not contain any information to confirm the conversation between Mr. Swinkin and the respondent concerning the physical therapy treatment of C.S. Respondent testified that he conducted joint mobilization techniques on C.S. but that he did not recall the location of the techniques nor did he document to which appendage he applied joint mobilization. He testified that he performed specific tests but the documentation did not support specific testing. Respondent alleged that the patient experienced pain when she performed hip extensions but this was not documented in the patient record. Respondent continued to provide physical therapy to the patient although the record demonstrated the "activity of daily living functions and pain scale of 1 out of 10" between January 22, 2010 and April 28, 2010, had not changed. Respondent testified that the patient's physician

continued to provide her with prescriptions for physical therapy and he and Mr. Swinkin continued to provide the services. The patient notes on March 1 and 4, 2010 indicated that the patient had a flare up of pain. Respondent stated that the treatment plan was not changed, despite this finding.

Respondent claimed that a copy of the home exercise program is kept in a "hard chart" maintained at the facility on each patient. However, respondent stated that there was no exercise program in the file for patient C.S. The computerized patient record referenced that a home exercise program was provided to C.S. but did not contain a description of the contents of the home exercise program.

Respondent testified that he prepared and conducted the re-evaluations on C.S. Re-evaluations are conducted in his practice approximately every thirty days on each patient. Only physical therapists are authorized to perform the re-evaluations.

Respondent testified that C.S. made a subjective complaint to him about "pain close to her vagina." He documented this on November 3, 2009. He conducted research on lumbar instability. He testified that he did not discuss this subjective complaint with Mr. Swinkin, the supervising physical therapist. He claimed that C.S. continued to complain about vaginal pain but he did not document it in the record. He testified that he recommended several times that C.S. perform Kegel exercises but he also did not

document this recommendation in the patient record. He did not provide any written instruction to the patient on the performance of kegels. Respondent testified that in January 2010, C.S. informed Respondent that she did not know how to do kegels properly. Respondent did not document this information in the record. Respondent testified that he enlisted the assistance of Rachel, a massage therapist, in the office to advise C.S. on how to properly perform a kegel. Respondent acknowledged that his supervising physical therapist was not aware that he performed a "manual kegel" on C.S. although the complainant claims that respondent never informed her about kegels. Mr. Swinkin did not authorize the modification of the plan of care for C.S. to include kegels. Respondent referred to the procedure performed on C.S. on January 8, 2012 as a "manual kegel." When asked about expertise regarding "Kegels" respondent confirmed that he only researched it online and had never performed a "manual kegel" before he performed it on C.S. Concerning his procedure on January 8, 2010 with this patient, he alleges that she declined a chaperone and that he explained the procedure to her. C.S. denies that he explained the procedure prior to performing it on her nor that he asked her if it he could perform it. C.S. also claims that respondent "never" offered her a chaperone while he was performing the "manual kegel." Respondent admitted that he did not use a latex glove for the first manual kegal but claims that he cleaned his hand with "purell"

before he performed the procedure.

Respondent stated that he performed another "manual kegel" on C.S. on February 8, 2010. Respondent also testified that C.S. did not suffer from incontinence. He testified that he did not know how to document the procedure so he put the entry into the record as "sacroiliac." On March 22, 2010 he did another "manual kegel" on C.S. It was his testimony that he performed the "manual kegel" on three different occasions never discussing the treatment with any supervising physical therapist.

The patient record of C.S. did not contain a discharge summary although the patient stopped coming in for therapy after April 28, 2010. A discharge summary is required pursuant to N.J.A.C. 13:39A-3.1(c) 13.

Respondent confirmed that neither he nor Mr. Swinkin wear identification tags to indicate their name and license designation as required by Board regulation. Identification tags are required pursuant to N.J.A.C. 13:39A-3.9.

Respondent also identified the practice website which referred to him by name but did not include his license designation as a physical therapist assistant and did not include his license number in violation of N.J.A.C. 13:39A-8.4 and 8.5.

The Board finds that Mr. Pallourous failed to work within the supervision parameters established for a physical therapist assistant pursuant to N.J.S.A. 45: 9-37.13 and N.J.A.C. 13: 39A-2.3

because he failed to communicate with the physical therapist upon initiation of the treatment with patient C.S. and he failed to document that communication in the patient record.

Respondent exceeded the scope of practice of a physical therapist assistant when he modified the plan of care of C.S. by instituting "kegel" exercises into her treatment plan and by his performance of "manual kegels" without appropriate training and authorization from the supervising physical therapist. Respondent's preparation of re-evaluations and performance of the assessment on the re-evaluations violated N.J.A.C.13:39A-2.3(c).

The Board finds the patient record of C.S. was inadequate. The records do not accurately reflect the treatment that was provided to the patient as they failed to include the kegel exercises recommended for the patient, they did not reflect accurate interventions as the patient record was silent on the "manual kegels" that the respondent performed on three occasions in violation of N.J.A.C.13:39A-3.2(c). The records did not reflect the findings of test results; the determination of the physical therapy diagnosis and prognosis as required by N.J.A.C.13:39A-3.2 (c)3 and 5. The intervention in the patient record did not include stated time periods for the duration of the interventions as required N.J.A.C.13:39A-3.2(c)7. The patient records also failed to demonstrate changes in the patient's progress and did not contain objective measures to support any changes as required by

N.J.A.C.13:39A-3.2(c)9. Changes to the plan of care are to be documented contemporaneously to being made and C.S.'s patient record is devoid of documentation in violation of N.J.A.C.13:39A-3.(c)10.

The computer system used in respondent's practice failed to accurately reflect the date and time of entries he made. Review of re-evaluations did not demonstrate which information was input by the PTA or the PT. The patient records also did not include time frames that the notes were made in violation of N.J.A.C.13:39A-3.2(a)1.

The respondent being desirous of resolving this matter without resort to formal proceedings, and the Board having determined that this Order is sufficiently protective of the public safety, health and welfare, and for good cause shown;

IT IS ON THIS 2nd day of January, 2013, ~~2012~~, ORDERED AND
HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice as a physical therapist assistant shall be suspended for a period of three years, eighteen months of which shall be an active suspension and the remainder stayed, and the remaining year and six months of the suspension shall be inactive and served as a period of probation on the condition that he satisfy all of the terms of this order. Respondent shall receive credit on the active suspension for the

one year and six months that his license was surrendered, and that he ceased practice. His license as a physical therapist^{assistant} shall be reinstated provided he complies with the conditions of this order.

2. Respondent shall permanently cease and desist from the performance of any digital penetration on patients.

3. Respondent, Jonathan Pallouras, P.T.A., shall be formally reprimanded for practicing beyond the scope of practice of a physical therapist assistant by failing to communicate about changes to the plan of care with the supervising physical therapist, implementing a treatment intervention and modifying the plan of care for C.S. without the authorization of the supervising physical therapist in violation of N.J.S.A. 45:9:37.20 and for implementing an intervention without knowledge or sufficient education of the procedure and for failing to record the appropriate documentation in the patient record as required by his scope of practice in violation of N.J.S.A. 9-37.20(b).

4. Respondent shall pay a civil penalty in the amount of \$7,500.00 for violations of N.J.S.A. 45:1-21(e) and N.J.A.C 13:39A-8(a)6; professional misconduct in performing interventions that he was not properly trained for and that was unnecessary; N.J.A.C 13:39A-3.9 for failing to wear a name tag that identifies his license status; N.J.A.C 13:39A-8.4 and 8.5 for failing to include his license number and designation in advertisements; N.J.A.C 13:39A-3.2(a)1 for using a computer program to prepare patient

records that does not document the date and time of all entries; N.J.A.C 13:39A-3.1(a) and (c) 3, 5, 7, 8, 9, 12 and 13 for failing to maintain adequate patient records; N.J.A.C 13:39A-2.3(d) for performing re-evaluations and modifying the plan of care of a patient without the direction of the supervising physical therapist; N.J.A.C 13:39A-7.3(a) and (c) and for implementing a treatment protocol i.e., kegel, without direction from the supervising physical therapist. Payment shall be made by certified check or money order payable to the State of New Jersey over 24 months in 23 equal installment payments of \$363.66 and the 24th and final payment in the amount of \$366.82. Payments shall be due on the 15th of each month and shall commence on January 15, 2013 and end by December 15, 2014. Payment shall be made to the Board of Physical Therapy Examiners, attention Lisa Tadeo, Executive Director, 124 Halsey Street, P.O. Box 45014, Newark, New Jersey 07101. If any payment that is due by the 15th of the month is late by more than 10 days after the due date, all outstanding amounts shall be due and owing including interest.

5. Respondent agrees to pay the costs of the investigation in the amount of \$1228.00 which shall be incorporated into the total amount of the civil penalty and paid over a 24 month period as specified in paragraph 4 above. Thus the total amount to be paid with civil penalty and costs shall be \$8,728.00.

6. Failure to remit payment as required by this Order will

result in the filing of a Certificate of Debt, including interest and such other proceedings as permitted by law.

7. Respondent shall fully attend, complete and successfully pass the ProBe Ethics course or a similar course pre-approved by the Board, within one year of the filing date of this order. He shall submit written proof of his successful satisfaction of this course within ten days of completion. This course cannot be used as credit for required continuing education for any biennial registration period.

8. Respondent shall successfully complete the American Physical Therapy Association's Defensible Documentation Course or another similar course pre-approved by the Board within two months of the filing date of this order. He shall submit written proof to the Board that this course was satisfactorily completed within ten days of completion. This course cannot be used as credit for required continuing education for any biennial registration period.

9. Respondent shall engage an independent monitor pre-approved by the Board to review and discuss patient records, treatment protocols and interaction between the Respondent and his supervising physical therapist. The independent monitor shall be a New Jersey licensed physical therapist and he shall remain in place for a minimum of two years. Respondent shall submit within thirty days of the filing date of the Order, the names and

curriculum vitae of at least three New Jersey licensed physical therapists who may serve as an independent monitor. The approved monitor shall provide the Board with detailed reports twice per month for the first three months and detailed reports every two months for the remainder of monitoring regarding respondent's progress in recordkeeping, practicing within the scope of practice of a physical therapist assistant, and seeking and receiving appropriate supervision. The monitor shall conduct random patient record reviews and discuss treatment protocols as well as confirm the interaction between the supervising on-site physical therapist and Respondent. The cost of the monitor is the sole responsibility of the Respondent. Respondent may apply for modification or termination of the monitoring at the end of the two years. Upon any such application, Respondent shall appear before the Board or a Committee thereof to discuss the lifting or modification on the condition of supervision.

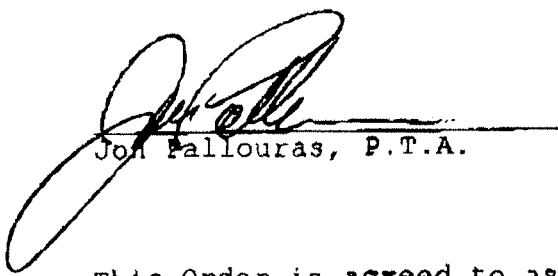
10. Any deviation from the terms of this Order without prior written consent of the Board shall constitute a failure to comply with the terms of this Order. Upon receipt of any reliable information indicating that the Respondent has violated any term of this Order, Respondent's license shall be automatically suspended by the Board until further Order of the Board. Within fifteen days following receipt of such notice, Respondent may request a hearing to contest the entry of such an Order. At any such hearing, the

sole issue shall be whether any of the information received was materially false. In addition, the Board reserves the right to bring further disciplinary action upon receipt of any new information.

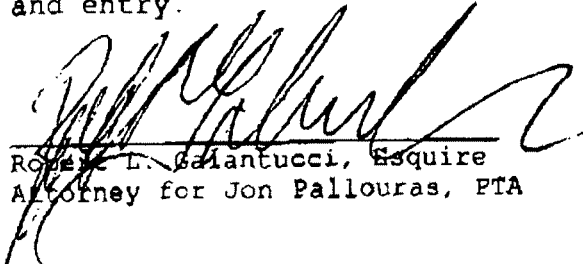
NEW JERSEY STATE BOARD OF PHYSICAL
THERAPY EXAMINERS

By: Karen Wilk PT DPT 40QA005260100
Karen Wilk, P.T., DPT
Board President

I have read and I understand
this Consent Order and agree to be
bound by its terms. I further
hereby consent to the entry of
this Consent Order.


Jon Pallouras, P.T.A.

This Order is agreed to as to form
and entry.


Robert L. Galantucci, Esquire
Attorney for Jon Pallouras, PTA

I have reviewed and understand
the responsibilities for serving
as the independent monitor
under this order. I agree to